

# Financial Institution Regulation: Ohio

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A Q&A guide to state banking in Ohio. This Q&A addresses how financial institutions are regulated, including chartering, registration, and regulatory requirements for banks and other financial service providers in Ohio.

## ESTABLISHING A STATE BANKING INSTITUTION

### 1. What approval requirements and procedures apply to chartering a bank in your state? Please address:

- The regulatory approval requirements and procedures, and criteria that apply to establishing a *de novo* state chartered bank.
- In which legal forms state banks can be organized. Can they be organized as limited liability companies?
- Whether your state applies heightened scrutiny and regulatory oversight to apply to *de novo* banks.
- Whether fintech companies may apply for a banking license.

Ohio law allows for the formation of two types of banking organizations:

- A stock bank formed under Ohio Revised Code Chapter 1113 (R.C. §§ 1113.01 to 1113.17).
- A mutual bank formed under Ohio Revised Code Chapter 1114 (R.C. §§ 1114.01 to 1114.16).

An Ohio bank must be formed in the same manner as a general corporation to which the Ohio general corporation statute applies, to the extent the statute is consistent with Ohio bank law (R.C. § 1113.01).

Five or more natural persons, at least one of which is a resident of the state, may incorporate either type of bank with the approval of the Ohio superintendent of financial institutions. The application to the superintendent must include:

- The proposed articles of incorporation and code of regulations.
- An application for name reservation, if applicable (R.C. § 1103.07).
- The location and a description of the proposed initial banking office.
- Information demonstrating that the proposed bank satisfies R.C. § 1113.03(c) and other applicable Ohio laws as determined by the superintendent.
- Any other information required by the superintendent.

(R.C. § 1113.02(A), (B).)

A corporation may incorporate a stock bank with limited powers if the corporation is either a federally registered bank holding company or the Ohio superintendent of financial institutions determines that the corporation is intending to form one of the following:

- A stock bank that limits activities solely to trust or fiduciary activities under the federal Bank Holding Company Act (12 U.S.C. § 1841(c)(2)(D)).
- A stock bank that limits its activities solely to credit card operations and:
  - does not accept demand deposits;
  - does not accept savings or time deposits of less than \$100,000;
  - maintains only one office that accepts deposits; and
  - does not engage in the business of making commercial loans.

(R.C. § 1113.02(C).)

### 2. How may trust services be provided in your state? Please address:

- The regulatory approval requirements and procedures that apply to establishing a trust company, and any criteria that the applicant must satisfy.
- What are the requirements are for an out-of-state trust company to provide trust services in your state. Are there state registration and/or physical presence requirements?

To engage in the trust business in Ohio, a corporation must, with certain exceptions, either:

- Obtain a license from the Ohio superintendent of financial institutions under R.C. § 1111.06 and be:
  - a state bank;
  - a bank authorized to accept and execute trusts and doing business under the bank chartering authority of another state or country; or
  - a corporation organized under the laws of another state or country and authorized to accept and execute trusts in that state or country.
- Be a national or federal savings association authorized to accept and execute trusts and doing business under authority granted by the US Office of the Comptroller of the Currency.

(R.C. § 1111.02(A).)

The superintendent approves an application and issue a trust company license when it determines the following requirements are satisfied:

- The applicant is a corporation as described under R.C. § 1111.02(A).
- The applicant's articles of incorporation or association authorize the applicant to serve as a trustee.
- The applicant has all of the following:
  - fidelity insurance for each of its employees in an amount that is reasonable for the size and nature of the trust company's business;
  - capital and insurance against errors and omissions totaling an amount adequate for its size and business; and
  - an adequate number of qualified management and personnel for its size and business.

(R.C. § 1111.05.)

- The applicant has pledged interest-bearing securities with a par value of \$100,000 to the Ohio treasurer (R.C. § 1111.04).

(R.C. § 1111.06(B).)

The licensure requirements do not apply to a corporation that fulfills the following:

- Is incorporated under the laws of another state.
- Has its principal place of business in another state.
- Is currently qualified to do and is engaged in a trust business in the state where it has its principal place of business.
- Is doing any of the following in Ohio:
  - serving as an ancillary executor or administrator of Ohio property in a decedent's estate by appointment by a court in the decedent's state of residence;
  - acquiring, as a trustee, a security interest or mortgage to secure an indebtedness; or
  - certifying to any evidence of indebtedness.

(R.C. § 1111.02(B).)

Any corporation soliciting or engaging in the trust business in Ohio that is exempt from licensure must also satisfy the insurance, capital,

and personnel requirements and pledge the required securities to the Ohio treasurer (R.C. §§ 1111.04 and 1111.05).

**3. What are the registration processes for other types of common financial services entities in your state? Please provide a brief discussion of approval and procedures that apply to establishing, along with other common entities:**

- Money transmitters.
- Money services businesses.
- Mortgage servicers.
- Non-bank lenders (both commercial and consumer).

The major regulated non-bank money service and lending businesses in Ohio are:

- Consumer installment lending.
- Money transmitters, check cashing businesses, and small loans.
- Second mortgage lending.
- Short-term consumer lending.

**CONSUMER INSTALLMENT LENDING**

The Ohio Consumer Installment Loan Act (CILA) (R.C. §§ 1321.62 to 1321.702) establishes a regulatory framework for consumer installment loans that:

- Are for a term of at least six months.
- Generally require equal monthly payments.
- Have an interest rate less than a specified maximum.
- Cannot be refinanced within the first 120 days of the loan term.

(R.C. § 1321.631.)

An entity must obtain a license from the Ohio superintendent of financial institutions before engaging in the consumer installment loan business unless a permitted exclusion applies (R.C. §§ 1321.63 and 1321.631).

The act permits closed-end and open-end lending and caps interest at 25% annually (R.C. § 1321.68).

An applicant for a CILA license must:

- Submit a written application to the superintendent.
- Obtain and maintain a license under R.C. § 1703.03 if the applicant is a foreign corporation.
- Pay:
  - a \$200 investigation fee;
  - a \$300 annual registration fee; and
  - any other required fees.
- Undergo civil and criminal background checks for any control person.

(R.C. § 1321.64.)

**MONEY TRANSMITTERS, CHECK CASHING, AND SMALL LOANS**

Ohio law requires entities to obtain a license from the Ohio superintendent of financial institutions before engaging in:

- Money transmitter activities (R.C. § 1315.02).
- Check cashing activities (R.C. § 1315.22).
- Small loan lending (loans of less than \$5,000) (R.C. § 1321.02).

### Money Transmitters

Money transmission includes:

- Directly or indirectly receiving money or its equivalent and delivering it by any means, method, or service to the same or another person at the same or another time or place.
- Selling checks or other payment instruments.

(R.C. § 1315.01.)

Applicants for a license to engage in money transmission activities must:

- Submit an application in the form required by the superintendent.
- Pay the required application fees and costs.
- Allow the superintendent to conduct an on-site examination of the applicant's record and operations.
- Be a legally established business that is:
  - capitalized separately from every other legal entity; and
  - qualified to do business in Ohio.
- Have a minimum net worth of \$500,000 under generally accepted accounting principles as modified by the superintendent.

(R.C. §§ 1315.03, 1315.04, and 1315.13.)

### Check Cashing

A check cashing business includes any person engaging in the business of cashing checks for a fee. It does not include:

- Small loan lenders licensed under R.C. §§ 1321.01 to 1321.19 (see Small Loans).
- Lenders registered under R.C. §§ 1321.51 to 1321.60 (see Second Mortgage Lending).
- Financial institutions, including:
  - banks;
  - trust companies;
  - savings banks;
  - savings and loan associations; and
  - credit unions.
- A person primarily selling tangible personal property or services at retail and derives less than 5% of gross income from check-cashing.
- Mortgage lenders registered under R.C. §§ 1322.01 to 1322.99.
- Money transmitters (see Money Transmitters).

(R.C. § 1315.21.)

Applicants for a license to engage in check cashing activities must:

- Submit an application in writing and under oath that contains:
  - the name and address of the individual applicant;
  - the name and address of each partner, if the applicant is a partnership;

- the name and address of each principal officer and director, if the applicant is a corporation or association;
- the complete address of the principal office where business is to be conducted; and
- any other information required by the superintendent.

- Pay the nonrefundable investigation fee of up to:
  - \$250 for domestic businesses; or
  - \$1,000 if the principal place of business is out-of-state.
- For each business location, pay the annual license fee of up to:
  - \$500; or
  - \$250 for licenses issued on or after July 1 of the year.
- Submit to an investigation by the superintendent.

(R.C. §§ 1315.22 and 1315.23.)

### Small Loans

Small loan lenders include any person engaged in the business of lending money or credit in amounts of \$5,000 or less (R.C. § 1321.02).

Applicants for a license to engage in small loan lending must:

- Submit an application in writing and under oath that contains:
  - the name and address of the individual applicant;
  - the name and address of each member, if the applicant is a partnership or association;
  - the name and address of each officer and director, if the applicant is a corporation;
  - the approximate location where business is to be conducted; and
  - any other information required by the superintendent.
- Pay the required licensing fee.
- Pay a nonrefundable \$200 investigation fee.

(R.C. §§ 1321.03 and 1321.20.)

### SECOND MORTGAGE LENDING

Second mortgage lenders must obtain a certificate of registration from the Ohio superintendent of financial institutions before engaging in business. Registered lenders may make loans that are not residential mortgage loans as defined in R.C. § 1322.01(HH), including unsecured loans and loans not secured by real estate or a dwelling (R.C. § 1321.52).

An applicant for a certificate of registration must:

- Submit an application in writing and under oath that includes any information required by the superintendent.
- Pay:
  - a non-refundable \$200 investigation fee or additional funds if required for out-of-state applicants; and
  - a \$300 annual registration fee.
- Submit to an investigation, including civil and criminal records checks.

(R.C. § 1321.53(A).)

Registrants must also maintain:

- A net worth of at least \$50,000.
- Assets of at least \$50,000, either in use or readily available, for each certificate of registration.

(R.C. § 1321.53(B).)

Registration does not apply to:

- Banks, savings banks, trust companies, savings and loan associations, or credit unions.
- Life, property, or casualty insurance companies licensed in Ohio.
- Small loan lenders (see Small Loans).
- Lenders licensed under the CILA (see Consumer Installment Lending).
- Business loan lenders under R.C. § 1343.01(B)(6).
- Political subdivisions and government or public entities or agencies.
- Colleges and universities as defined under R.C. § 1713.05.

(R.C. § 1321.53(D).)

Any person engaged in the business of selling tangible goods or services at retail may not receive a certificate under this law (R.C. § 1321.53(E)).

#### SHORT-TERM CONSUMER LENDING

Lenders making short-term consumer loans in Ohio must first obtain a license from the Ohio superintendent of financial institutions (R.C. § 1321.36(A)). Short-term loans:

- May not exceed \$1000 (R.C. § 1321.39(A)).
- Must be of a minimum duration of 91 days and a maximum of one year.
- May have a duration of less than 91 days if the total monthly payment is less than the greater of:
  - 6% of the borrower's gross monthly income; or
  - 7% of the borrower's net monthly income.

(R.C. § 1321.39(B).)

- May not have an interest rate of more than 28% annually (R.C. § 1321.40).
- May not be made by phone or mail (R.C. § 1321.36(B)).

Applicants for a license to engage in the business of making short-term loans must:

- Submit an application in writing and under oath that contains:
  - the applicant's name and address;
  - the location where the loan business is to be conducted;
  - any other information required by the superintendent.
- Pay a non-refundable \$200 investigation fee.
- Pay an original license fee of:
  - \$1,000 for each business location; or
  - \$500 for licenses issued on or after July 1 of the year.
- Submit to a civil and criminal records check.

- Be financially sound and have a net worth of at least \$100,000, or a net worth of at least \$50,000 if the applicant is an Ohio non-profit corporation.

(R.C. § 1321.37(A), (B).)

The licensing requirement does not apply to any entity chartered and lawfully doing business under state or federal law as:

- A bank.
- A savings bank.
- A trust company.
- A savings and loan association.
- A credit union.
- Any subsidiary of the above entities, if it is:
  - regulated by a federal banking agency; and
  - owned and controlled by a depository institution.

(R.C. § 1321.36(D).)

#### ESTABLISHING AN IN-STATE PRESENCE

##### 4. Are foreign banks permitted to establish offices in your state? Please discuss:

- What types of direct offices are permitted to be established by a foreign banking organization (branches, agencies, representative offices, direct offices, and so on).
- What regulatory approval requirements and procedures apply to the establishment of an office by a foreign bank.
- Whether all provisions of state prudential regulation for state-chartered banks apply to state-licensed branches of foreign banks or other categories of foreign bank offices. If not, please explain.

Foreign banks may establish representative offices, agency offices, and branch offices in Ohio. A foreign bank is any company or subsidiary affiliate of a company that engages in the business of banking and is organized under the laws of:

- A foreign country.
- A territory of the United States.
- Puerto Rico, Guam, American Samoa, or the US Virgin Islands.

A foreign bank also includes:

- A foreign commercial bank.
- A foreign merchant bank.
- Another foreign institution engaged in banking activities usually conducted in:
  - the country that granted its charter; or
  - the countries where the foreign institution is operating.

(R.C. § 1119.01(A).)

#### REPRESENTATIVE OFFICE

A foreign bank must submit an application for approval to the Ohio superintendent of financial institutions for each representative office the foreign bank proposes to operate. When determining whether to approve an application, the superintendent considers whether:

- The foreign bank is subject to comprehensive supervision and regulation in the country that granted its banking charter.
- The foreign bank and its representative offices have adequate management.
- Any controlling person of the foreign bank and each director or executive officer is competent and of good character.
- The foreign bank has adequate capital and financial resources.
- The bank is currently operating in compliance with applicable laws, regulations, and orders.
- It is reasonable to believe that the bank intends to operate the representative office in compliance with applicable laws, regulations, and orders.

(R.C. § 1119.05(A).)

A licensed representative office of a foreign bank may conduct the following activities:

- Contact local persons to solicit business for the bank. The representative may not solicit, receive, or accept deposits either directly or as an agent.
- Accept and process applications for extension of credit but not approve any application.
- Prepare documentation and execute documents for transactions approved outside of Ohio but may not disburse any funds or otherwise provide credit in Ohio.
- Conduct credit investigations and analysis requested by persons authorized to extend credit.
- Provide information on local economic and business conditions.

(R.C. § 1119.06(B).)

A representative office cannot engage in:

- Soliciting, receiving, or accepting deposits.
- Approving any application for the disbursement of funds or otherwise providing credit in Ohio.
- Carrying credit balances.
- Exercising fiduciary powers.

(R.C. § 1119.06(A).)

#### AGENCY OFFICE OR BRANCH OFFICE

A foreign bank must submit an application to the superintendent of financial institutions for each agency office or branch office it proposes to operate in Ohio. The superintendent must consider the same elements in granting an application as those considered for licensure of representative branch (R.C. § 1119.08(A); see Representative Office).

To operate an agency office or branch office, a foreign bank must pledge assets as specified by the superintendent. To determine the amount and kind of the assets, the superintendent considers both:

- The amounts necessary or desirable to maintain a sound financial condition and to protect depositors, creditors, and the public interest.
- The concentration of risk to:
  - any one borrower or a group of related borrowers; and

- any one country, including the foreign bank's country of domicile.

(R.C. § 1119.09.)

A licensed agency office or branch office of a foreign bank is subject to the same limitations and requirements of engaging in banking activity as a state bank (R.C. § 1119.11(A)). A foreign bank authorized to operate an agency office **cannot** either:

- Accept deposits.
- Exercise fiduciary powers.

(R.C. § 1119.11(B)(1).)

A foreign bank licensed to operate an **agency office** may:

- Conduct all of the permissible activities of a representative office (see Representative Office).
- Lend money.
- Maintain credit balances that are incidental to or arising out of the distribution of loan proceeds.
- Receive funds as an agent to be forwarded for deposit to an existing account at another office authorized to accept deposits.

(R.C. § 1119.11(B)(2).)

A foreign bank licensed to operate a **branch office** may:

- Conduct all of the permissible activities of:
  - a representative office (see Representative Office); and
  - an agency office.
- Accept deposits.
- Exercise fiduciary powers, if otherwise authorized.
- Conduct other activities authorized for state banks.

(R.C. § 1119.11(C).)

### STATE BANKING HOLDING COMPANY LAW

#### 5. What requirements exist for establishing a bank holding company in your state? Please describe:

- When a bank holding company must be established in your state.
- What regulatory approval requirements and procedures apply to the establishment of an office by a foreign bank.
- What activities a bank holding company may engage in, and what restrictions are placed on a bank holding company's business.

Beginning January 1, 2018, Ohio law allows the creation of mutual bank holding companies and Ohio mutual state banks to reorganize into mutual holding companies. Ohio Revised Code Chapter 1116 (R.C. §§ 1116.01 to 1116.21) governs the creation and powers of a mutual holding company as well as the methods for reorganization.

A mutual holding company must be created, organized, governed, and conduct its business under Ohio's corporation laws (R.C. §§ 1701.01 to 1701.99) and is subject to the authority of the Ohio superintendent of financial institutions (R.C. § 1116.02).

A mutual holding company may:

- Acquire a bank organized in mutual or stock form by merging it with the mutual holding company's:
  - subsidiary stock state bank;
  - interim subsidiary stock bank; or
  - subsidiary stock holding company.
- Merge with or acquire another holding company, if the acquired company has a subsidiary banking corporation.
- Exercise the powers of or engage in the permitted activities of a mutual state bank.
- Engage in permissible activities under applicable state and federal law.
- Invest in the stock of a bank.
- Exercise or waive rights or take action regarding any securities of any of the holding company's subsidiary stock state banks or subsidiary stock holding companies.

(R.C. § 1116.18.)

With approval of the superintendent, a mutual state bank may reorganize to a mutual state holding company in a manner allowed under R.C. § 1116.05(A). Before reorganizing into a mutual holding company, a mutual state bank must:

- Obtain approval of the reorganization plan by:
  - a two-thirds vote of the board of directors of the reorganizing mutual state bank and any acquired mutual bank; and
  - at least a majority (or as provided under the articles of incorporation) of the mutual state bank's members at the annual meeting or a special meeting called to approve the plan.
- File a reorganization application that includes the following information:
  - an officer's certification that the plan has been approved by the board of directors and members;
  - a copy of the reorganization plan; and
  - any other information required by the superintendent.

(R.C. § 1116.05(C).)

A foreign mutual holding company organized under the laws of another state or of the US may convert to an Ohio mutual holding company by:

- Submitting an application under R.C. § 111.15.
- Obtaining the approval of the superintendent of financial institutions.

(R.C. § 1116.16.)

## STATE PRUDENTIAL REGULATION

**6. Describe the major banking powers of state chartered banks in your state. Please address whether "Parity" or "Wild Card" laws exist that allow a state-chartered institution to engage in any activities permissible under federal law for national banks. If not, what are the limitations of powers of state-chartered banks in comparison with national banks?**

Ohio state banks generally have all the powers, may perform all the acts, and provide all services required by or incidental to the business of banking.

An Ohio state bank may:

- Take deposits (R.C. § 1109.05).
- Provide safe deposit boxes and receive tangible property or evidence of tangible or intangible property (R.C. § 1109.08).
- Loan money:
  - with or without security;
  - payable on demand, at maturity, or in installments; or
  - in any combination of the above.
- Issue, advise, and confirm letters of credit.
- Purchase open accounts.
- Make loans secured by stocks, bonds, or other securities.
- (R.C. § 1109.15(A).)
- Extend credit on a revolving basis (R.C. § 1109.18).
- Charge interest or finance charges up to an annual rate of 25% (R.C. § 1109.20(A)).
- Charge interest, fees, and other charges on revolving credit at the same or a lower rate that a bank located in another state may charge its Ohio customers (R.C. § 1109.181(B)).
- Elect to operate as a savings and loan association by providing written notice of the election to the superintendent of financial institutions, if its qualified thrift investments:
  - equal or exceed 65% of its portfolio assets; and
  - continue to equal or exceed 65% of its assets on a monthly average basis in nine of every 12 months.

(R.C. § 1109.21(B).)

A bank transacting business in Ohio must insure its deposit accounts with the Federal Deposit Insurance Corporation and maintain that insurance as a condition of doing business (R.C. § 1109.03).

### PARITY AND WILD CARD LAWS

The Ohio superintendent of financial institutions must, by rule, grant state banks and trust companies authorized to do business in Ohio any right, power, privilege, or benefit of:

- Any of the following doing business under the authority of the comptroller of the currency or the regulatory authority of any other US state:
  - banks and trust companies;
  - savings associations;
  - savings banks; and
  - credit unions.
- Any other banks, savings association, or credit unions with a principal place of business in the US doing business under the authority of US laws.
- Any other persons engaging in the business of:
  - banking;
  - offering financial products and services;
  - soliciting or accepting deposits;



- lending money; or
- buying or selling bullion, bills of exchange, notes, bonds, stocks, or other evidence of indebtedness.
- Small business investment companies licensed under the Small Business Investment Company Act of 1958 (15 U.S.C. § 661).
- Persons chartered under the Farm Credit Act of 1933 (12 U.S.C. § 1131(d)).

(R.C. § 1121.05(A).)

Ohio state banks may also exercise all the powers, perform all the acts, and provide all the services permitted for national banks and federal savings associations, other than those dealing with interest rates, regardless of the effective date of a parity rule adopted by the Ohio superintendent of financial institutions under R.C. § 1121.05. If the superintendent has not adopted a parity rule applicable to the institution, a state bank must provide written notice to the superintendent of the action and the basis for the action. The superintendent may prohibit the action within 90 days of receiving notice if the action is determined unsafe or unsound for the bank. (R.C. § 1109.02(C).)

**7. Describe lending limits applicable to state banking organizations. Please address limits regarding:**

- The amount and quality of bank assets.
- Specific borrowers
- Other applicable limits, such as lending transactions with affiliates.
- Whether compliance with federal law for affiliate transactions constitutes compliance with state law.

Ohio law limits the total loans and extensions of credit by a state-chartered banking organization to both:

- 15% of the unimpaired capital of the bank in unsecured loans to one borrower.
- 10% of the unimpaired capital of the bank in secured loans to one borrower.

Each limit is separate from and in addition to the other. Regardless of the limits, any bank may grant one or more loans in an aggregate amount of up to \$500,000 to one person as otherwise allowed under federal law. (R.C. § 1109.22(B).)

Exceptions to these limits include loans or extensions of credit:

- Secured by bonds, notes, US treasury bills, or other US obligations.
- Secured by unconditional takeout commitments or guarantees of any department, agency, bureau, or other establishment of the US or a corporation wholly owned by the US.
- Secured by a segregated deposit account in the lending bank.
- To any financial institution or agent in charge of the business and property of a financial institution and approved by the Ohio superintendent of financial institutions.

(R.C. § 1109.22(C).)

**8. Are there antitrust regulations specific to your state? Please address:**

- Regulations on tying activities.
- Regulations involving other antitrust concerns.

When considering the impact of a proposed action or transaction on the convenience and needs of a community to be served, the Ohio superintendent of financial institutions must consider whether the facts and circumstances reasonably indicate that the purpose of the proposed transaction is to engage in the banking business and provide banking services in the served community rather than to raise funds for or otherwise serve a non-banking purpose (R.C. § 1121.26(A)).

However, the superintendent may not require the person proposing the action to prove that:

- There is a substantial unmet need for banking services in the community to be served.
- The transaction brings currently unavailable banking services or other advantages to the community being served.
- The transaction does not adversely affect an existing financial institution in the community.

(R.C. § 1121.26(B).)

**9. Please describe the applicable document retention requirements for financial institutions in your state. Please address:**

- What is required in a financial institution's written document retention and disposal policy.
- Whether state law provides for a particular time period during which banks and other financial institutions must retain records.

Each Ohio bank must preserve the following bank records and supporting documents for one year:

- Broker's confirmations, invoices, and statements relating to security transactions, from the transaction date.
- Corporate resolutions, partnership or similar authorizations relating to closed accounts, loans that have been paid and other completed transactions, from the date of closing, payment, or completion.
- Ledger records of safe deposit accounts, after the date of the last ledger entry.
- Night depository records, from the record date.
- Records relating to closed Christmas club or similar duration special purpose accounts, from the closing date.
- Records relating to customer collection accounts, from the transaction date.
- Stop payment orders, from the order date.
- All records relating to closed consumer credit loans and discounts, from the closing date.
- Deposit tickets for demand deposit accounts, from the ticket date.

(R.C. § 1109.69(A)(1).)

Each Ohio bank must preserve the following bank records and supporting documents for six years:

- Deposit and withdrawal tickets relating to open and closed savings accounts, from the ticket date.
- Individual ledger sheets or other records that show a zero balance and relate to time, demand time, and savings deposit accounts and safekeeping accounts:
  - from the date of the last entry; or
  - where the records show an open balance, from the date of the balance transfer to another ledger sheet or record.
- Cancelled official checks, drafts, money orders, and other payment instruments issued by the bank, from the date of issue.
- Safe deposit access tickets and documents relating to access, from the ticket date.
- Lease and contract records relating to closed safe deposit box accounts, from the closing date.
- Signature cards, from the closing date.
- Undelivered statements for demand deposit savings and other customer accounts.

(R.C. § 1109.69(A)(2).)

Ohio law specifically allows copying and reproduction processes to satisfy the retention requirements (R.C. § 1109.68(A)).

**10. Please describe privacy and confidentiality requirements in your state. Please address:**

- Whether state law provides for financial privacy or confidentiality obligations or restrictions on financial institutions.
- Whether state law financial privacy or confidentiality obligations apply only to consumers or are they also applicable to other types of financial institution customers.

Financial institutions operating in Ohio must disclose security breaches of computerized personal financial information to any Ohio resident:

- With personal information that was or reasonably may have been accessed.
- If it is reasonably believed that the unauthorized acquisition causes a material risk of fraud or identity theft.

(R.C. § 1349.19(B)(1).)

The disclosure must be made either:

- As quickly as possible after the discovery of the breach.
- No later than 45 days after the discovery of the breach.

The timing of the required notice is subject to the needs of the law enforcement activities that are reasonably necessary to determine the scope of the breach and to restore the reasonable integrity of the breached data system. (R.C. § 1349.19(B)(2).)

This law exempts from its requirements any financial institution that is both:

- Required by federal law to notify its customers of an information breach.

- Subject to examination under applicable federal law.

(R.C. § 1349.19(F)(1).)

**11. Describe how your state exercises its examination and remedial authority. Please address, among other things:**

- The type of periodic supervisory examination that exists, including scope and frequency.
- Penalties that your state authority may impose for violating registration and prudential requirements.

**SUPERVISORY EXAMINATIONS**

Ohio state financial institution regulatory authority resides in the Ohio superintendent of financial institutions. The deputy superintendent of banks is the principal supervisor of state banks and trust companies. (R.C. § 1121.02.)

The superintendent or an appointed deputy or examiner must thoroughly examine the records and affairs of each state bank either:

- At least once every 24 months.
- As often as the superintendent considers necessary, unless the bank:
  - has no more than \$10 billion in assets; and
  - maintains a composite rating of 1 under the uniform financial institutions rating system.

(R.C. §§ 1121.10(A) and 1121.101(A).)

The examination must include a review of:

- Compliance with the law.
- Safety and soundness.
- Other matters determined by the superintendent.

(R.C. § 1121.10(A)(1).)

The superintendent may also examine, as often as considered necessary, the records and affairs of:

- Any party to a proposed reorganization requiring the superintendent's approval under R.C. §§ 1115.11 or 1115.14.
- Any bank, savings and loan association, or savings bank proposing to convert to a stock state bank or mutual state bank requiring the superintendent's approval under R.C. § 1115.02.
- Any person proposing to acquire control of a state bank requiring the superintendent's approval under R.C. § 1115.06 or acquiring control of a state bank without the superintendent's approval.
- Any bank proposing to establish or acquire a branch requiring the superintendent's approval under R.C. § 1117.02.
- Any foreign bank that maintains or proposes to establish an office in Ohio.
- Any trust company.

(R.C. § 1121.10(B).)

**PENALTIES**

For a state bank, trust company, or other regulated entity or person engaging in unsafe or unsound practices or committing a violation



of any regulatory laws or rules, the superintendent may issue the following penalties:

- Cease and desist orders (R.C. § 1121.32).
- Removal or prohibition orders (R.C. § 1121.33).
- Suspension or temporary prohibition orders (R.C. § 1121.34).
- Orders for civil money penalties of up to \$5,000 per day (R.C. § 1121.35).

If a state bank, trust company, or regulated person that refuses to allow an examination, refuses to give required information, or provides false or misleading information, the superintendent may:

- Issue any of the orders listed above.
- Appoint a conservator for a state bank under R.C. § 1125.09.
- Initiate any criminal or civil proceedings as the superintendent believes appropriate.

(R.C. § 1121.16.)

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